



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of :  
Choong Seng BOON : Docket No.01489/P158730  
Serial No. 09/155, 398 : Group Art Unit 2613  
Filed February 2, 1999 : Examiner Y. Lee

DIGITAL IMAGE REPLENISHMENT  
METHOD, IMAGE PROCESSING DEVICE  
AND DATA RECORDING MEDIUM

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**RESPONSE TO ELECTION OF SPECIES REQUIREMENT**

Assistant Commissioner for Patents,  
Washington, D.C.

Sir:

In response to the May 3, 2001 Office Action requiring an Election of Species under 35 U.S.C. § 121, the Applicant provisionally elects, with traverse, species I corresponding to Figures 1-3 of the application. It is noted that Claims 1-3, 6-7, and 16-17 read on the elected species. The Applicant respectfully traverses the Examiners requirement and request reconsideration of such requirement based on the following remarks.

The Applicant note that restriction may be required if two or more independent and distinct inventions are present in one application [see 35 U.S.C. § 121]. The term independent means that there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect.

The Applicant notes that the Examiner, in paragraph 1 on page 2 of the Office Action, has required an election of a single species from species I-XI as delineated by the Examiner, and the Applicant further notes that the Examiner has merely stated in connection with this requirement that, "Claims 1-21 show 11 embodiments as illustrated in Figures 1-16". The Examiner has not identified or indicated to the Applicant that there is no disclosed relationship between the inventions claimed, that is,

the Examiner has failed to identify or indicate to the Applicant that the alleged independent and distinct inventions are unconnected in design, operation, or effect.

Specifically, the Applicant submits that, at the very least, it is clear that the claim inventions delineated as species I-IV by the Examiner, as shown below, have a disclosed relationship and are connected in design, operation, or effect:

- (1) species I, Figures 1-3(b);
- (2) species II, Figures 3(c) and 4;
- (3) species III, Figure 5;
- (4) species IV, Figures 6 and 7.

Particularly, it is noted that each of species I-IV identified above correspond to embodiment 1 of the invention as discussed on page 30 of the specification of the present application. It is noted that while species II, III, and IV each correspond to modifications 1, 2, and 3, respectively, of embodiment 1 as mentioned on pages 41-49 of the specification, it is submitted that these species are connected in design, operation, and effect since they each correspond to embodiment 1 (with modifications provided thereof). The Applicants note that claims 1-7 and 16-17 read on species I-IV as delineated by the Examiner.

Thus, for at least the foregoing reasons, the Applicant respectfully requests the Examiner to withdraw the restriction requirement and, at the very least, the Examiner is requested to proceed with an examinations of claims 1-7 and 16-17 on the merits.

Respectfully submitted,

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